

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7218

BILL NUMBER: SB 394

NOTE PREPARED: Jan 6, 2004

BILL AMENDED:

SUBJECT: Off-Road Vehicle Operation.

FIRST AUTHOR: Sen. Sipes

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: This bill requires the Department of Natural Resources (DNR) to adopt rules concerning safety training for off-road vehicle operators. The bill authorizes the DNR to charge a fee for issuance of a safety certification and establishes the Off-road Vehicle Safety Education and Training Program and Fund to be funded with certification fees. The bill allows a nonresident of the state to operate an off-road vehicle for not more than 20 days without a safety certification. It sets requirements for operation of off-road vehicles. This bill also requires certain minors, when operating an off-road vehicle, to be supervised by an individual at least 18 years of age. The bill also makes conforming amendments.

Effective Date: July 1, 2004.

Explanation of State Expenditures: The DNR must adopt rules for the establishment and implementation of a comprehensive off-road vehicle safety education and training program. The content of a safety education and training class must be adopted from a curriculum developed by a nationally recognized off-road vehicle safety organization. The rules must provide for the issuance of an off-road vehicle safety certificate to an operator who successfully completes the training or the issuance of an exceptional off-road safety certificate to an individual at least 18 who demonstrates at least one year of experience in operating an off-road vehicle. The rules must set the term that the certificate is valid and provisions for suspension or revocation of the certificate. The DNR may adopt rules for the equipment and lighting required for an off-road vehicle when participating in competitive events. The DNR does not have to adopt rules for the comprehensive off-road vehicle safety education and training program before January 1, 2006.

The rules may also authorize a person to conduct training classes and to charge a reasonable fee, subject to approval by the DNR, for the classes. A person who conducts a class and issues a certificate must be certified

by the DNR. In order to be certified, an individual at a minimum must hold a current off-road vehicle safety certification or license issued by a nationally recognized off-road vehicle safety organization; be at least 18; have no convictions relating to the use of alcohol or a controlled substance in the immediately preceding two years before the date of application for certification; and have no prior convictions of a felony.

The DNR must administer the off-road vehicle safety education and training program fund. Expenses of administering the program must be paid from money in the fund. However, the DNR could experience a shortage of funds during the first year or two of operation because the DNR will need to implement the program before it can generate fees from certificates. The funds and resources required could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. As of December 29, 2003, the DNR had 170 budgeted full-time vacant positions with total minimum possible salaries of \$4.7 M. Additionally, for FY 2003, the DNR reverted \$10.8 M to the General Fund. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Explanation of State Revenues: The DNR must establish a fee for issuance of an off-road vehicle safety certificate or exceptional off-road vehicle safety certificate by rules. The fee must be paid to the DNR before the certificate is issued. (A nonresident may operate an off-road vehicle in Indiana for a period not to exceed 20 days in one year without holding a certificate.) Fees collected for certificates must be deposited into the Off-road Vehicle Safety Education and Training Program Fund. The fund is established for the purpose of providing off-road vehicle safety education and training through the DNR.

According to the DNR, which registers off-road vehicles used on public property, 31,553 off-road vehicles are currently registered in the state. The current fee for registering an off-road vehicle is \$30 every three years. This registration fee generates \$946,590 every three years, or \$315,530 per year. The fee that the DNR will establish for the certificate is not known. If the fee were set at \$10 and if all 31,553 off-road vehicles owners obtained a certificate, \$315,553 would be generated. It is also not known if or when the certificate would expire which would significantly affect the amount of revenue that would be generated from the fee.

The Treasurer of State must invest money in the Off-road Vehicle Safety Education and Training Program Fund not currently needed to meet the obligations in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited into the fund. Money in the fund at the end of a state fiscal year does not revert to the state General Fund.

Penalties: If an off-road vehicle is equipped with a headlight and taillight, both must be illuminated at the time of the crossing of a public highway.

An individual may not operate an off-road vehicle on public land without having been issued an off-road vehicle safety certificate or exceptional off-road vehicle safety certificate. The certificate must be in the person's immediate possession.

An off-road vehicle may be operated on public land by an individual at least 12 if the engine capacity does not exceed 90 cubic centimeters; and by an individual at least 16 if the engine capacity of the off-road vehicle exceeds 90 cubic centimeters. An individual who is at least 12 but less than 16 who is operating an off-road vehicle must be under the immediate supervision of another individual at least 18. The burden is on the individual charged with the violation to prove by a preponderance of the evidence that the individual had

been issued a certificate that was valid at the time of the alleged violation. An individual does not violate this provision if the individual, within five days after the time of apprehension, produces to the apprehending officer or headquarters of the apprehending officer satisfactory evidence of a certificate. The requirement that an individual who operates an off-road vehicle must have a certificate does not apply before January 1, 2006.

An individual must not operate an off-road vehicle on public land without protective glasses, goggles, or a transparent face shield; and protective headgear meeting the minimum standards under rules adopted by the Department. An individual operating an off-road vehicle may not ride other than on a permanent and regular seat on the off-road vehicle. An individual may not carry another individual on the off-road vehicle who is not seated on a firmly attached and regular seat on the off-road vehicle. An off-road vehicle operated on public property must be equipped with an effective spark arrester in good working order.

Violators of the above provisions could be found guilty of a Class C infraction. If additional court cases occur, revenue to the state General Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class C infraction is \$500 which is deposited in the state General Fund. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed. 70% of the court fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures:

Explanation of Local Revenues: If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Natural Resources.

Local Agencies Affected: Trial courts, local law enforcement agencies.

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